

**WILLIAMSBURG CITY COUNCIL  
NOVEMBER 13, 2003  
MINUTES**

The Williamsburg City Council held its regular monthly meeting on November 13, 2003 at 2:00 p.m., in the Council Chambers of the Stryker Building.

**ATTENDANCE**

Present were Ms. Zeidler, Messrs. Haulman, Houghland, Scruggs, and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Weiler, Yost, Clayton, Nester, Hudson, Serra, Walentisch, and Assistant City Manager Miller.

**CALL TO ORDER**

Mayor Zeidler called the meeting to order.

**COUNCIL MINUTES**

*Mr. Houghland Moved Approval of the City Council Minutes of October 6 and October 9, 2003. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

**SPECIAL PRIVILEGE**

**Awards by Hampton Roads Association of Commercial Real Estate, presented by Mr. Andy Cronin and Mr. Tom Tingle, Architects**

Mr. Cronin and Mr. Tingle presented City Council with the Excellence in Development Design Award of Merit for the Renovation of Quarterpath Recreation Center and the Excellence in Development Design First Honor Award for the Renovation of the Williamsburg Transportation Center. Photographs of both buildings were shown and the Judge's comments were read highlighting the two renovation projects. Mr. Tingle congratulated the city on receiving the awards and presented copies of the certificates to Council.

Mayor Zeidler thanked Mr. Tingle, his colleagues, and staff for their work. Both buildings are attractive and set the standards for buildings in Williamsburg. The awards will be displayed.

**PUBLIC HEARINGS**

**PCR #03-22: Amendment of the Zoning Ordinance to allow freestanding automatic teller machines in the B-2 and B-3 Districts, *Proposed Ordinance #03-32***

Reference for this item was Mr. Nester's report dated November 13, 2003. Mr. Nester explained that this is a minor adjustment to the B-2 and B-3 Districts to allow freestanding automatic teller machines. ATMs are allowed by the Zoning Ordinance as an accessory use, but cannot be located in front yards. This change to the Zoning Ordinance would allow ATMs to be located in the front yard of shopping center parking lots and other commercial buildings. The Architectural Review Board will approve the ATMs when located in an AP or a CP District. The Planning Commission held a public hearing on this request and recommended that the Zoning Ordinance be amended as proposed.

Mayor Zeidler opened the public hearing.  
No one wished to speak. The hearing was closed.

Mr. Nester clarified for Council that there were no requests for ATMs pending at this time. Mr. Tuttle explained there was a previous request from the Monticello Shopping Center and one of the items discussed at that time was an ATM. Mr. Nester said that if the Zoning Ordinance were being written today, ATMs would be included since they do serve the public good.

Council members discussed issues pertaining to the ATM including ATM clutter, size, color, access, the stacking of cars, and safety and convenience of the public.

*Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #03-32, An Ordinance Amending Chapter 21, Zoning, By Revising Article III, Division 9, Tourist Business District B-2 and Division 10, General Business District B-3, to Allow Freestanding Automatic Teller Machines. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None (SEE ATTACHED ADOPTED ORDINANCE #03-31)*

**PCR #03-23: Amendment of the Zoning Ordinance to make two changes to the LB-1 District: delete the floor area ratio requirement; and allow parking on driveways in a front yard area for single-family detached dwellings, *Proposed Ordinance #03-33***

Reference for this item was Mr. Nester's report dated November 13, 2003. Mr. Nester explained this amendment to the Zoning Ordinance resulted from a subdivision plat request from Colonial Williamsburg to create a smaller lot around the Cary Peyton Armistead House, create a smaller lot next to the house, and use some of the area to the rear of the house for parking for the Pearl Jones House. Planning Commission approved the subdivision contingent upon the elimination of the floor area ratio requirement in the LB-1 District. Council members received a copy of the subdivision plat. The floor area ratio (FAR) is the ratio of total floor area of a building divided by the total lot area. Mr. Nester explained the floor area ratio restriction in the LB 1 District, and reviewed the ratios for selected buildings as outlined in his report. Eliminating this requirement would allow the creation of a smaller lot.

The second change to the LB-1 District prohibits parking in the front yard, and the purpose of this restriction was to help preserve the residential character of this area. The LB-1 District prohibits parking in the front yard, but it is difficult to prohibit parking in the driveway between the street and the house. It is proposed to remove the restriction of parking in the front yard for single family. Parking in front yards would still be prohibited for commercial uses. Staff recommended that the Planning Commission approve the amendments to the Zoning Ordinance. Planning Commission recommended this change be approved. Proposed Ordinance #03-33 effects both changes to the LB-1 District.

Mayor Zeidler opened the Public Hearing.  
No one wished to speak. The hearing was closed.

Council members discussed the proposed changes. Mr. Houghland noted that when this block on Henry Street was being reviewed, Council and Colonial Williamsburg demanded that they did not want a lot of cars to be backing out onto the street from driveways. Mr. Nester said there is plenty of public parking dedicated to these homes. He noted that he recommended this change because it is difficult to enforce no parking in the front yard. Mr. Scruggs suggested the two issues be separated.

Mr. Haulman said the floor area ratio does not affect the setbacks or mass of the building. Parking is another issue, and this change would allow parking in front yards of single-family homes to become easier.

Council members concurred with the recommendation to delete the floor area ratio, but not with the amendment regarding parking in front yards.

*Mr. Scruggs Moved That City Council Approve Propose Ordinance #03-33, Amending the Code of the City of Williamsburg Chapter 21, Zoning LB-1 District, Section 21-250(2) Floor Area Ratio. The Motion Was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-32)

### **Amendment to City Charter, Tax or Assessment District**

Reference for this item was the Clerk's report dated November 5, 2003, which included a copy of the proposed ordinance and notice of public hearing.

Mr. Phillips said that the State Code had been amended to allow localities to establish special taxing districts, but that the consent of all property owners affected must be unanimous. Following this public hearing, City Council will consider whether or not to request the General Assembly in its 2004 session to amend the Charter of the City of Williamsburg to allow Council to establish one or more tax or assessment districts for the under grounding of existing overhead utility lines for electricity, telephone, or cable television within such district(s). To designate such a district, a public hearing would be held at the petition of three-fourths of the landowners in a district.

The purpose of this public hearing is to receive public comment on the proposed amendment to the City Charter. After the public hearing, if council decides to submit this amendment to the General Assembly, the City Attorney will be directed to send certified copies to our representatives to request the amendment to the Charter.

Mayor Zeidler opened the public hearing.  
No one wished to speak. The hearing was closed.

Council members had no questions. Mr. Haulman asked Mr. Tuttle to request a representative from Dominion Power to talk to Council about the positives and negatives of underground wiring and costs. Mayor Zeidler commented that this change would help the city to help citizens in placing their electric wires underground.

*Mr. Haulman Moved That City Council Approve Proposed Ordinance #03-37, An Ordinance to Request the General Assembly of the Commonwealth of Virginia at its 2003/2004 Session to Amend Chapter V of the Charter for the City of Williamsburg as it Appears in Chapter 393 of the Acts of Assembly of 1932, and as Subsequently Amended in Order to: (1) Renumber Current Subsection 22.3 Entitled "Power and Authority of Councilmen Generally" as Section 22 of Said Charter; (2) Add A New Paragraph 7 to the Renumbered Section 22 Allowing City Council to Establish One or more Tax or Assessment Districts for the Undergrounding of Existing Overhead Utility Lines for the Distribution of One or More of Electricity, Telephone, or Cable Television Within Such District(s) and (3) to Amend Subsection 22.1 of Chapter V of the Charter to Incorporate by Reference All Sections of Article 1 of Chapter 11 of Title 15.2 of the Virginia Code as Said Article May be Amended From Time to Time. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-36)

**Amendment to City Charter, Compensation to School Board Appointees, *Proposed Ordinance #03-34***

Reference for this item was The Clerk's report dated November 5, 2003, which included a copy of the proposed ordinance and notice of public hearing.

Mr. Phillips explained that the city and James City County operate a joint school system. The County now has an elected school board, while the city members are appointed. When the State Code was amended in 2002 regarding compensation to school board members, the city was omitted from the list of cities because the thinking was that both school boards were elected. This ordinance is to request the General Assembly to amend the city charter to provide for payment of compensation to the appointed city school board members serving on the joint school board in parity with the county members. If the city did have a separate school board, maximum compensation would be set at \$5,000, the maximum allowed by State Code.

Mr. Houghland suggested that the ordinance be changed to delete the reference to the \$5,000 maximum compensation and insert language to the effect that compensation would be set at the maximum amount permitted for localities by the State Code.

Mayor Zeidler opened the public hearing.  
No one wished to speak. The hearing was closed.

*Mr. Houghland Moved that City Council Adopt Proposed Ordinance #03-34, An Ordinance to Request the General Assembly of the Commonwealth of Virginia at Its 2003-2004 Session to Amend Section 9 of Chapter 1 of the Charter for the City of Williamsburg As It Appears in Chapter 393 of the Acts of Assembly of 1932, And As Subsequently Amended, In order to Provide for Payment of Compensation to School Board Appointees When Serving on a Joint Board with James City County and to Appointed Trustees Serving on the City School Board, and That the Language in the Second Paragraph, Last Sentence of the Ordinance be Changed by Omitting "not to exceed \$5,000 per year as determined by city council," and Inserting "as determined by city council not to exceed the highest maximum compensation then allowed for any appointed school board under Section 21.1-32C of the Code of Virginia (1950), as amended or any other then applicable provision of the Code of Virginia." The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-33)

**Amendment to City Charter, Authorize Clerk of Council to Administer Oaths, Proposed Ordinance #03-35**

Reference for this item was The Clerk's report dated November 5, 2003, which included a copy of the proposed ordinance and notice of public hearing.

Mr. Phillips said there have been complaints from people appointed to various boards and commissions that they must go to the Office of the Clerk of the Circuit Court to take an oath of office. The proposed ordinance requests that the General Assembly amend the city's Charter in order to authorize the Clerk of City Council to administer oaths to persons appointed by Council or by the Judge of the Circuit Court to serve on boards, commissions, or other collegial bodies of the city.

Mayor Zeidler opened the public hearing.  
No one wished to speak. The hearing was closed.

Council members concurred with this request.

*Mr. Houghland Moved That City Council Adopt Proposed Ordinance #03-35, An Ordinance to Request the General Assembly of the Commonwealth of Virginia at Its 2003/2004 Session To Amend Section 10 of Chapter I of the Charter for the City of Williamsburg As It Appears in Chapter 393 of the Acts of Assembly of 1932, And As Subsequently Amended in Order to Authorize the Clerk of City Council to Administer Oaths to Persons Appointed by City Council or by the Judge of the Circuit Court of the City of Williamsburg and County to Serve on Boards, Commissions or Other Collegial Bodies of the City. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-34)

## REPORTS

### Monthly Financial Statement

*The Monthly Financial Report was received and ordered filed.*

Mr. Serra reported that Room and Meal Tax Revenues were down. While Sales Tax revenues do fluctuate, they were up substantially for September and he will contact the State about the amount.

Council members were frustrated with the possible inaccuracy of the figures for Sales Tax receipts. Mr. Haulman noted that accurate numbers are needed in order to plan during the upcoming budget cycle. The Mayor noted that the trend for room, meal and sales tax revenues was flat or even down, which was sobering.

Mr. Serra reported that cigarette tax totaled \$171,000, with \$212,000 being projected for the fiscal year.

### Monthly Departmental Operating Reports

*The Monthly Departmental Operating Reports were received and ordered filed.*

United Way Campaign: Mr. Tuttle reported that City Employees exceed their campaign goal of \$14,000. Over \$18,000 was pledged to date.

Mr. Tuttle reported that the Volunteer Citizens Corps held a successful meeting on October 21.

Mayor Zeidler noted that the Disaster Food Stamp program figure increased.

### Planning Report

**PCR #03-18: Amendment of the Zoning Ordinance to create the LB-2 Limited Business College District which allows student-oriented housing with a special use permit; to reduce the size of parking spaces and drive aisles for residential parking; and to establish a parking requirement for student-oriented housing.**

**PCR #03-19: Rezoning of approximately 6.1 acres in the Midtown Planning Area from B-3 to LB-2**

Mr. Tuttle stated that Mr. Nester provided background on this item at the November work session. Council must now decide whether or not to move ahead with a public hearing on these matters.

Mr. Nester summarized his comments regarding this request to amend the Zoning Ordinance to create an LB-2 Limited Business College District to allow student-oriented housing (with a special use permit), and to amend the parking requirements. The second part of this request involves a rezoning in the Midtown Planning Area. The Planning Commission recommendation was that Council not approve this request. Council must decide whether or not to hold a public hearing on these matters, and if it chooses to do so, it could be scheduled for the December Council Meeting. If not, the request would be withdrawn.

Mayor Zeidler commented that she would like to have more information about staff's recommendation to amend the zoning ordinance.

Mr. Houghland was not in favor of scheduling the public hearing at this time, but would like more dialog and feedback on this subject in the near future, with involvement of the Planning Commission, Planning staff, the College, and citizens. He was of the opinion that this Midtown area could use some redevelopment.

Mr. Tabb echoed Mr. Houghland's remarks and said he would like to have student housing in the appropriate location.

Mr. Scruggs said this project might relieve the pressure from rentals in city neighborhoods. Citizens did have the opportunity to speak and state their concerns about this project. While he did not believe another public hearing would accomplish anything at this point, he would like more discussion.

Mr. Haulman commented that two issues are commingled. Two areas need discussion. How does the community use the rezoning and options to address areas in need of redevelopment, and what are the pluses and minuses of this particular project? He favored postponing the public hearing and to giving staff and Council time to consider how to move forward on these issues. The issue of multifamily housing may need to be revisited.

Mr. Phillips commented that this issue dovetails the Comprehensive Plan update and it might be a different request at a later date. No action by Council would mean withdrawal. Mr. Phillips suggested that Council not proceed with this proposed ordinance but direct staff and Planning Commission to begin to focus on the broader question of the use of zoning to provide housing and multifamily housing in the city.

*Mr. Haulman Moved That City Council Defer The Authorization to Advertise the Public Hearing Until the February 2004 City Council Meeting. The Motion Was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

### **City Manager Reports**

#### **Prince George/North Boundary Street Streetscape, Award of Bid**

Reference for this item was Mr. Tuttle's report dated November 10, 2003. Mr. Clayton used slides to review the project features for the reconstruction. Prince George will be narrowed, sidewalks widened and bricked, and parking eliminated on one side of the street. Along North Boundary (between Richmond Road and Scotland Street), the curb, gutter, and sidewalks will be replaced and the street will be milled and overlaid. New streetlights and street trees will be installed. Mr. Clayton reviewed the Schedule of Work and said that merchants in the area have been advised of the project, which will begin in January and be completed in June.

Mr. Clayton said that four bids were received, with the low bidder being Techcon, Incorporated, at \$770,948. Staff recommended that a contract be executed with Techcon.

Mr. Houghland asked that Mr. Clayton check the adequacy of lighting in this area because he was concerned about pedestrian safety. Mr. Clayton will check into the lighting, especially in crosswalks, at Mr. Houghland's request. Council members were pleased with this project.

*Mr. Haulman Moved That City Council Authorize the City Manager to Execute A Contract with Techcon, Incorporated, for the Prince George Street/North Boundary Streetscape Based on a Lump Sum Bid in the Amount of \$770,948. The Motion Was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

### **Travel Industry Vision Taskforce—Request for City Participation**

Reference for this item was Mr. Tuttle's report dated November 6, 2003, which included a copy of the RFP for "Researching A Strategic Vision and Action Plan for The Historic Triangle's Tourism Industry."

Mr. Tuttle explained representatives of the travel industry would like to conduct a consultant study to help the industry craft a vision for its future through a strategic planning process. The Task Force is nearing completion of a consultant selection process and the cost to conduct the research project is \$75,000. The Task Force is asking that one half of the cost of the project be shared by the three local governments at a contribution of \$12,500 each. Staff supports Williamsburg's participation drawing on our \$150,000 contingency fund in the amount of \$12,500.

Council members supported the research project and requested contribution. Mr. Haulman hoped that innovative thinking and new ideas would result from this study.

*Mr. Scruggs Moved That City Council Authorize \$12,500 for City Support of the \$75,000 Travel Industry Vision Study in the Current Fiscal Year, to Be Paid From the Contingency Fund. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

### **Downtown Parking Systems and Enforcement, *Proposed Ordinance #03-36***

Reference for this item was Mr. Tuttle's report dated November 6, 2003. Mr. Tuttle said that at the work session, Council received the background information on basic garage operation, signage, and parking enforcement. The proposed ordinance provides for graduated parking fines with each successive violation at \$10.00, \$30.00, and \$50.00 in a 60-day period. The ordinance does not apply to the enforcement of parking in residential areas, but that might be done at a later time. The final design for signage is not complete, but he

offered to bring it to Council. Mr. Tuttle said he would report back to Council about the system after the first six months. The ordinance will be effective January 1, 2004.



*Mr. Tabb Moved That City Council Adopt Proposed Ordinance #03-36, An Ordinance to Amend and Restate Sec. 11-162 of Article VI, Chapter 11 of the Williamsburg Code Pertaining to Parking Violation fees, effective January 1, 2004. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-35)

### **City Attorney Report**

#### **Revenue Bond Issue for Colonial Community Services, *Proposed Resolution #03-21***

Reference for this item was Mr. Tuttle's report dated November 6, 2003, which included the supporting documentation for the bond issue.

Mr. Phillips explained that at the October 7 meeting, the Williamsburg IDA approved an inducement resolution for the issuance of up to \$2,000,000 in revenue bonds for Colonial Services Board. CSB plans to use the bonds for refinancing of an existing loan and to construct a new office building adjacent to the current one on Merrimac Trail. They are located in York County, but York County does not want to commit its bank-qualified money for that purpose this year, and asked the Williamsburg IDA to move forward with the issue.

Mr. Phillips said it is appropriate that the Williamsburg's IDA undertake the project. He was not aware of any other request for the city's revenue bonds.

Mr. Bill Harrison, Colonial Services Board, said the city would have heard if there was another use for the money during this calendar year. The Mayor noted that requests have been received late in the year.

Council members voiced concern about the use of the city's bank-qualified money for a project in York County. Mr. Scruggs noted the CSB does service the entire community and their service will be even more important as funds are cut to Eastern State Hospital. Mayor Zeidler noted that CSB is a good organization that benefits our citizens. York County is retaining their funds for waterfront projects. Council members agreed that this organization provides a valuable service to our community.

*Mr. Scruggs Moved That City Council Approve Proposed Resolution #03-21, A Resolution Approving the Issuance of Industrial Development Revenue Bonds for the Colonial Community Services, Incorporated Project. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

**Update: Court Case Regarding Rental Housing and Inspection Program:** Mr. Phillips reported on the court hearing regarding the legal issues on the city's ordinance. The Judge will have a decision by early January at the latest. Any appeal would have to go to the Supreme Court. Mr. Phillips said that the Virginia Board of Realtors would most likely go back to the General Assembly this year.

## **OLD BUSINESS**

### **Legislative Agenda for 2004, Proposed Resolution #03-20**

Reference for this item was Mr. Tuttle's report dated November 6, 2003, which included a copy of the proposed resolution and List of 2004 Legislative Priorities. Mr. Tuttle said that Council had reviewed the legislative agenda at the November Council meeting and it was now ready for adoption. The item regarding the School Board has been added to the list.

*Mr. Haulman Moved That City Council Approve Proposed Resolution #03-20, A Resolution Supporting Certain Local and State Legislative Issues, and That Copies Be Provided to Delegate Barlow and Senator Norment. The Motion Was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

### **Appointments to Boards and Commissions**

*Mr. Houghland Moved the following reappointments:*

*Mr. Scott Spence to the Architectural Review Board for a four-year term to expire December 31, 2007;*

*Ms. Judith Knudson to the Board of Zoning Appeals for a five-year term to expire December 31, 2008;*

*Mr. John Greene to the Regional Issues Committee for a four-year term to expire December 31, 2007;*

*Ms. Joyce Alewynse to the Williamsburg Redevelopment and Housing Authority Board for a four-year term to expire February 05, 2008; and*

*Appoint Ms. Gwen Williams to the Finance and Audit Committee for the unexpired term of Mr. Bruce Baxter to expire June 30, 2004.*

*The Motion Was Seconded By Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

## **NEW BUSINESS**

**Holiday Leave for City Employees:** Mr. Tuttle reminded Council that at the November meeting, Mr. Houghland asked the City Manager to devise a way to thank city employees for their work during Hurricane Isabel. Mr. Tuttle suggested that employees be given an additional holiday, December 26, for them to enjoy being with family and friends. City offices will be closed December 24, 25, and 26.

*Mr. Tabb Moved That City Council Approve December 26 As An Additional Holiday for City of Williamsburg Employees. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

Mr. Tuttle added that Public Safety and Water Plant employees would schedule around their work hours for the additional leave or receive discretionary leave.

## **Upcoming Appointment to School Board**

*Mr. Houghland Moved That City Council Hold A Public Hearing At the December 11, 2003, City Council Meeting to Hear the Views of Citizens Regarding the Appointment of One School Board Member. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb*

*No: None*

## **OPEN FORUM**

Mayor Zeidler opened the comment session.

No one wished to speak. The session was closed.

## **CERTIFICATION OF GENERAL ELECTION**

**Attached is the Abstract of Votes cast in the City of Williamsburg, Virginia, at the November 4, 2003 General Election for Senate of Virginia Thomas K. Norment, Jr. and Mary P. Minor, House of Delegates Troy H. Lapetina and William K. Barlow, Commonwealth's Attorney Michael E. McGinty, Sheriff Robert J. Deeds, Treasurer M. Ann Davis, and Write-Ins Certification.**

Approved: December 11, 2003

Shelia Y. Crist

Jeanne Zeidler